UNITED STATE DISCTRICT COURT FOR THE DISTRICT OF MASSACHUSE

	7985 1128 21 Pc2A. No.:	05 10472 RGS
RICHARD P. BEAUREGARD and LAURA BEAUREGARD	DELIGIOUS MASS	
Plaintiffs)	
)	
v.)	
)	
EVEREST PARTNERS, LLC)	
Defendant)	
)	

ANSWER AND JURY CLAIM OF THE DEFENDANT, **EVEREST PARTNERS, LLC**

Now come the Defendant, Everest Partners, LLC (hereinafter "Defendant") and answers the Complaint paragraph by paragraph as follows:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted and must be dismissed pursuant to Rule 12(b)(6) of the Massachusetts Rules of Civil Procedure.

SECOND AFFIRMATIVE DEFENSE

By way of affirmative defense, the Defendant answers the Complaint paragraph by paragraph as follows:

Parties

- 1. The Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in this paragraph of the Complaint and therefore denies said allegations.
- The Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in this paragraph of the Complaint and therefore denies said allegations.
- The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.

Jurisdiction

4. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.

<u>Facts</u>

- 5. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.
- 6. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.
- 7. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.
- 8. The Defendant denies the allegations set forth in this paragraph of the Plaintiff's Complaint.
- 9. The Defendant denies the allegations set forth in this paragraph of the Plaintiff's Complaint.

WHEREFORE, the Defendant denies the Plaintiff is entitled to judgment in any amount or kind.

THIRD AFFIRMATIVE DEFENSE

By way of affirmative defense, the Defendant states that the action was not brought in accordance with and within the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

The Defendant relies upon such other and further defenses as may become available to it during discovery in this action.

FIFTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the Defendant states that the Plaintiff is barred from recovery pursuant to M.G.L. c. 231, §6D.

WHEREFORE, the Defendant denies that the Plaintiffs are entitled to have judgment entered in its behalf in any amount including, but not limited to, property damages, compensatory damages, multiple damages, punitive damages, exemplary damages, emotional distress, and any other relief.

JURY CLAIM

THE DEFENDANT HEREBY DEMANDS A TRIAL BY JURY AS TO ALL ISSUES PROPERLY TRIABLE.

Dated: April \mathcal{V} , 2005

Respectfully submitted,

The Defendant,

Everest Partners, LLC,

By their attorney

Michael L. Marioney Mullen & McGourty

52 Temple Place, 4th Floor

Boston, MA 02111 (617) 338-9200

BBO# 557562

CERTIFICATE OF SERVICE

I, Michael L. Mahoney, hereby certify that I provided copies of the within documents to all parties by forwarding copies first class mail, postage prepaid to:

Howard H. Swartz, Esq. Law Offices 3 Summer Street Chelmsford, MA 01824

Dated: April, 2005

Michael L. Mahoney